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FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			JONES, HEATHER RAE	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/081,973	<b>Applicant(s)</b> SHIGETOMI ET AL.
	<b>Examiner</b> HEATHER R. JONES	<b>Art Unit</b> 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 January 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-5,8-30 and 32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-5,8-30 and 32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 2-5, 8-30, and 32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 8, 3, 4, 9-13, 15-17, 19, 21-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (U.S. Patent 7,013,477) in view of Daniels (U.S. Patent 6,973,669) in view of Baji et al. (U.S. Patent 5,027,400) in view of Suito et al. (U.S. Patent 6,285,818) in view of Knudson et al. (U.S. Patent 6,564,379).

Regarding claim 8, Nakamura et al. discloses an information reproducing apparatus comprising: a receiver for receiving broadcast information and selecting a signal therefrom that includes commercial broadcast information having a supplied sequence (Fig. 2; col. 12, lines 17-35); a storing means (26) for storing a sequentially supplied series of the broadcast information (col. 12, lines 17-35; col. 14, lines 12-20); a commercial detecting means for detecting the commercial broadcast information from the received broadcast information based on predetermined identification information contained in the received broadcast

information (col. 12, lines 17-35 – the CM start unit (23) corresponds to a CM detecting unit); a reproducing means for reproducing broadcast information stored in the storing means (col. 14, lines 21-25); and an inputting means for inputting a commercial designation signal for designating the commercial broadcast information to be reproduced at the reproducing means (Fig. 5; col. 14, line 25 – col. 15, line 8). However, Nakamura fails to disclose a controlling means for sequentially reading the series of broadcast information from the storing means and making the reproducing means reproduce the same in accordance with the supplied sequence, generating image information corresponding to the detected commercial broadcast information and combining the same with the reproduced image of the series of broadcast information, and making the reproducing means reproduce the combined image information, and, when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced, wherein the commercial detecting means detects the commercial broadcast information based on detecting scene changes where broadcast information changes discontinuously and detects the commercial

broadcast information based on a time interval at which said detected scene changes occur in the reproduced image or based on detecting the commercial broadcast information based on fluctuations in the reproduced sound level of the broadcast information, wherein a still image of a header portion of the commercial broadcast information or text or graphics indicating information relating to the commercial broadcast information is displayed at a predetermined portion on the screen that is separate from the broadcast portion during reproduction of the broadcast portion, and wherein a commercial broadcast is reproduced in any desired order by selection from the still image or text or graphics displayed at the predetermined portion on the screen.

Referring to the Daniels reference, Daniels discloses an apparatus comprising a controlling means for sequentially reading the series of broadcast information from the storing means and making the reproducing means reproduce the same in accordance with the supplied sequence, generating image information corresponding to the detected commercial broadcast information and combining the same with the reproduced image of the series of broadcast information, and making the reproducing means reproduce the combined image information (Fig. 17; col. 25, line 60 – col. 26, line 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials at the same time as the program as disclosed by Daniels with the apparatus disclosed by Nakamura et al. so that the user can keep watching their program and only

pause when they see a commercial in the corner that interests them. However, Nakamura et al. in view of Daniels still fail to disclose that when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced, wherein the commercial detecting means detects the commercial broadcast information based on detecting scene changes where broadcast information changes discontinuously and detects the commercial broadcast information based on a time interval at which said detected scene changes occur in the reproduced image or based on detecting the commercial broadcast information based on fluctuations in the reproduced sound level of the broadcast information, wherein a still image of a header portion of the commercial broadcast information or text or graphics indicating information relating to the commercial broadcast information is displayed at a predetermined portion on the screen that is separate from the broadcast portion during reproduction of the broadcast portion, and wherein a commercial broadcast is reproduced in any desired order by selection from the still image or text or graphics displayed at the predetermined portion on the screen.

Referring to the Baji et al. reference, Baji et al. discloses that when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced (col. 3, line 58 - col. 4, line 13 - between programs; col. 8, lines 9-10- the commercials can be arranged on the subscriber's system).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have reproduced all the commercials before the program begins as disclosed by Baji et al. with the apparatus disclosed by Nakamura et al. in view of Daniels in order to allow the user to watch their program uninterrupted and the advertisers still get to show their commercials. However, Nakamura et al. in view of Daniels in view of Baji et al. still fail to disclose that the commercial detecting means detects the commercial broadcast information based on detecting scene changes where broadcast information changes discontinuously and detects the commercial broadcast information based on a time interval at which said detected scene changes occur in the reproduced image or based on detecting the commercial broadcast information based on fluctuations in the reproduced sound level of the broadcast information,

wherein a still image of a header portion of the commercial broadcast information or text or graphics indicating information relating to the commercial broadcast information is displayed at a predetermined portion on the screen that is separate from the broadcast portion during reproduction of the broadcast portion, and wherein a commercial broadcast is reproduced in any desired order by selection from the still image or text or graphics displayed at the predetermined portion on the screen.

Referring to the Suito et al. reference, Suito et al. discloses commercial detecting means detects the commercial broadcast information based on detecting scene changes where broadcast information changes discontinuously and detects the commercial broadcast information based on a time interval at which said detected scene changes occur in the reproduced image or based on detecting the commercial broadcast information based on fluctuations in the reproduced sound level of the broadcast information (col. 4, lines 14-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized any method of detecting commercial broadcasts in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in order to have a better quality commercial detector. However, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. still fail to disclose wherein a still image of a header portion of the commercial broadcast information or text or graphics indicating information relating to the commercial broadcast information is

displayed at a predetermined portion on the screen that is separate from the broadcast portion during reproduction of the broadcast portion, and wherein a commercial broadcast is reproduced in any desired order by selection from the still image or text or graphics displayed at the predetermined portion on the screen.

Referring to the Knudson et al. reference, Knudson et al. discloses an information reproducing apparatus wherein a still image of a header portion of the commercial broadcast information or text or graphics indicating information relating to the commercial broadcast information is displayed at a predetermined portion on the screen that is separate from the broadcast portion during reproduction of the broadcast portion, and wherein a commercial broadcast is reproduced in any desired order by selection from the still image or text or graphics displayed at the predetermined portion on the screen (Figs. 12 and 14; col. 9, lines 13-25; col. 9, line 61 - col. 10, line 26 - the user can pick any commercial from the still images they want to view in any order).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercial using simple graphics on the display at the same time as the broadcast so that the user can choose whichever commercials they want to see in any order as disclosed by Knudson et al. with the information reproducing apparatus as disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in order to provide on-demand electronic advertising information provided for items

used in scenes of television programs and to allow the user to choose commercials they are interested in.

Regarding claim 3, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8 including that the controlling means sequentially reads said detected commercial broadcast information from said storing means in accordance with a sequence by which said commercial broadcast information was supplied (Nakamura et al: Fig. 4; col. 14, lines 12-20).

Regarding claim 4, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8 including that the controlling means sequentially reads commercial broadcast information specified by an address of a head part stored in the storing means and a data length identification information from designated in the storing means (Nakamura et al: Fig. 4; col. 14, lines 12-20).

Regarding claim 9, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8 including that the controlling means suspends reproduction of said series of broadcast information and makes the reproducing means reproduce designated commercial broadcast information when said commercial designation signal is input (Nakamura et al.: Fig. 5; col. 14, line 25 – col. 15, line 8).

Regarding claim **10**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8, including that the controlling means combines a still image of a reproduced image of the detected commercial broadcast information and a reproduced image of the series of broadcast information and makes the reproducing means reproduce the same (Knudson et al.: Fig. 12).

Regarding claim **11**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claims 8 and 10, but fails to disclose that the controlling means erases the still image of said commercial broadcast information from a display area of said reproducing means in the subsequent reproduction of the series of broadcast information when commercial broadcast information has been reproduced in accordance with said commercial designation signal. Official Notice is taken that it is well known that once a commercial is reproduced it is replaced by another one on the screen. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have erased (or replaced) the commercial that has been viewed with another in the information reproducing apparatus as disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. in order to ensure that the all of the commercials the advertisers paid for are displayed.

Regarding claim 12, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claims 8 and 10 including the controlling means changes the still image of the commercial broadcast information to a predetermined image showing the commercial broadcast information finished being reproduced in the subsequent reproduction of the series of broadcast information when commercial broadcast information has been reproduced in accordance with the commercial designation signal (Knudson et al.: col. 10, lines 1-26 – after watching the commercial an indication to the user is given as to whether to buy the product, record the program, or etc., therefore letting the user know that the commercial is finished).

Regarding claim 13, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8 including that the controlling means sequentially reads commercial broadcast information specified by an address of a head part stored in the storing means and a data length identification information from designated in the storing means (Nakamura et al.: Fig. 4; col. 14, lines 12-20).

Regarding claims 15 and 16, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8 including that the commercial detecting means detects the commercial broadcast information

based on detecting scene changes where broadcast information changes discontinuously and detects the commercial broadcast information based on a time interval at which said detected scene changes occur in the reproduced image or based on detecting the commercial broadcast information based on fluctuations in the reproduced sound level of the broadcast information (Suito et al.: col. 4, lines 14-27).

Regarding claims **17** and **19**, these are method claims corresponding to the apparatus claims 8 and 3. Therefore, claims 17 and 19 are analyzed and rejected as previously discussed with respect to claims 8 and 3.

Regarding claims **21** and **22**, this is a method claim corresponding to the apparatus claim 8. Therefore, claims 21 and 22 are analyzed and rejected as previously discussed with respect to claim 8.

Regarding claims **23** and **24**, these are method claims corresponding to the apparatus claims 8 and 9. Therefore, claims 23 and 24 are analyzed and rejected as previously discussed with respect to claims 8 and 9.

Regarding claims **25-27**, these are method claims corresponding to the apparatus claims 10-12. Therefore, claims 25-27 are analyzed and rejected as previously discussed with respect to claims 10-12.

Regarding claims **29** and **30**, this is a method claim corresponding to the apparatus claims 15 and 16. Therefore, claims 29 and 30 are analyzed and rejected as previously discussed with respect to claims 15 and 16.

4. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. as applied to claims 8 and 17 above, and further in view of Barritz et al. (U.S. Patent Application Publication 2002/0019769).

Regarding claim 2, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that the controlling means generates a viewing confirmation message at least one time, makes the reproducing means reproduce it, and suspends a read operation of the broadcast information from the storing means at the time of reproduction of the commercial broadcast information and restarts the read operation of said broadcast information when a response signal with respect to the related viewing confirmation message is detected.

Referring to the Barritz et al., Barritz et al. discloses an information reproducing apparatus disclosing a viewing confirmation message at least one time, makes the reproducing means reproduce it, and suspends a read operation of the broadcast information from the storing means at the time of reproduction of the commercial broadcast information and restarts the read operation of said broadcast information when a response signal with respect to the related viewing confirmation message is detected (paragraph [0117]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the message system as

disclosed by Barritz et al. with the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. in order to determine viewer presence during commercials.

Regarding claim 18, this is a method claim corresponding to the apparatus claim 2. Therefore, claim 18 is analyzed and rejected as previously discussed with respect to claim 2.

5. Claims 5, 14, 20, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. as applied to claims 8 and 17 above, and further in view of Levy (U.S. Patent Application Publication 2003/0192060)

Regarding claim 5, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that the commercial detecting means detects the commercial broadcast information based on electronic watermark information included in image data of the broadcast information.

Referring to the Levy reference, Levy discloses detecting commercial broadcast information based on electronic watermark information (paragraph [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have detected commercial broadcasts based

on electronic watermark information in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. to provide the apparatus with a better quality commercial detector.

Regarding claim **14**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Suito et al. in view of Knudson et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that the commercial detecting means detects the commercial broadcast information based on electronic watermark information included in image data of the broadcast information.

Referring to the Levy reference, Levy discloses detecting commercial broadcast information based on electronic watermark information (paragraph [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have detected commercial broadcasts based on electronic watermark information in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. to provide the apparatus with a better quality commercial detector.

Regarding claim **20**, this is a method claim corresponding to the apparatus claim 5. Therefore, claim 20 is analyzed and rejected as previously discussed with respect to claim 5.

Regarding claim 28, this is a method claim corresponding to the apparatus claim 14. Therefore, claim 28 is analyzed and rejected as previously discussed with respect to claim 14.

6. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (U.S. Patent 7,013,477) in view of Baji et al. (U.S. Patent 5,838,314).

Regarding claim 32, Nakamura et al. discloses an information reproducing method comprising: receiving sequential broadcast information having a plurality of broadcast portions and a plurality of broadcast commercial portions, the plurality of broadcast commercial portions in a broadcast sequence and separating the broadcast portions (Fig. 2; col. 12, lines 17-35); storing the sequential broadcast information in the sequence as received (col. 12, lines 17-35; col. 14, lines 12-20); and reproducing broadcast information stored in the storing means (col. 14, lines 21-25). However, Nakamura et al. fails disclose reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions.

Referring to the Baji et al. reference, Baji et al. discloses an information reproducing method comprising reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast

commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions. (col. 3, line 58 - col. 4, line 13 - between programs; col. 8, lines 9-10- the commercials can be arranged on the subscriber's system).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have reproduced all the commercials before the program begins as disclosed by Baji et al. with the apparatus disclosed by Nakamura et al. in order to allow the user to watch their program uninterrupted and the advertisers still get to show their commercials.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEATHER R. JONES whose telephone number is (571)272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Heather R Jones  
Examiner  
Art Unit 2621

HRJ  
March 13, 2009

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